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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,764	07/11/2005	John Alan Gervais	PU030016	6099
24498	7590	01/22/2009		
Robert D. Shedd Thomson Licensing LLC PO Box 5312 PRINCETON, NJ 08543-5312			EXAMINER CHAN, SAI MING	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/541,764	GERVAIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sai-Ming Chan	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/16/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 7 and 8** are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of adjusting a time base is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating

obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1, 2, 7 and 9** are rejected under 35 U.S.C. 102(b) as being anticipated by **Bove et al. (U.S. Patent Publication # 20020049983)**, in view of **Eerenberg et al. (U.S. Patent Publication #20030002540)**.

Consider **claims 1, 7 and 9**, Bove et al. clearly disclose and show an apparatus for wirelessly transmitting and receiving digital video data, comprising:

a means for communicating the relative time difference to a transmitter having as one feature of transmission a time base (paragraph 0083 (decompress thread sleeps through the time difference));

a means for the transmitter to adjust the time base in according to the relative time difference (paragraph 0083 (decompress thread sleeps through the time difference)).

However, Bove et al. do not show a means for receiving a time stamp and determining difference of timestamps.

In the same field of endeavor, Eerenberg et al. clearly disclose a means for receiving a time stamp (paragraph 0008 (received successive transmission time stamps)) and a means for determining a relative time difference between the time stamp and a previous time stamp (paragraph 0008 (calculate time difference from the received successive time stamps));

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate an apparatus for wirelessly transmitting and receiving digital video data, as taught by Bove, and show receiving a time stamp and determining difference of timestamps, as taught by Eerenberg, so that the best video quality can be achieved.

Consider **claim 2, and as applied to claim 1 above**, Bove et al. clearly disclose and show an apparatus, wherein the transmitter communicates to one or more receivers (fig. 2 (54), paragraph 0036 (digital receiver)), the adjusted time base according to the

relative time difference (paragraph 0083 (decompress thread sleeps through the time difference)).

**Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bove et al. (U.S. Patent Publication # 20020049983)**, in view of **Eerenberg et al. (U.S. Patent Publication #20030002540)**, and further in view of **Anderson (U.S. Patent #7006446)**.

Consider **claim 3**, and **as applied to claim 2 above**, Bove et al. clearly disclose an apparatus for wirelessly transmitting and receiving digital video data as described.

However, Bove et al. do not show receiver adjusts a time base according to the relative time difference.

In the same field of endeavor, Andersen clearly discloses one or more receivers (col. 3, lines 36-46 (subscriber unit)) adjust a time base according to the relative time difference (col. 3, lines 36-46 (detects the offset and adjusts its own transmission time accordingly)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate an apparatus for wirelessly transmitting and receiving digital video data, as taught by Bove, and show receiver adjusts a time base according to the relative time difference, as taught by Andersen, so that the best video quality can be achieved.

**Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bove et al. (U.S. Patent Publication # 20020049983)**, in view of **Eerenberg et al. (U.S. Patent Publication #20030002540)** and **del Prado Pavon et al. (U.S. Patent #71200)**, and in view of **Mohindra (U.S. Patent Publication # 20050020226)**.

Consider **claim 8**, and **as applied to claim 7**, Bove et al. clearly disclose an apparatus for wirelessly transmitting and receiving digital video data as described.

However, Bove et al. do not show the steps of adjusting a time base according to a relative time difference and VCXO.

In the same field of endeavor, del Prado Pavon et al. clearly disclose determining a relative time difference between a current and a previous AUX SCR (abstract (master sends cycle time value)) to the current and a last value latched in a local oscillator clock (abstract (slave calculates the difference value), column 4, lines 44-54 (oscillators)); adjusting a clock in the local oscillator (fig. 2a (18a (non-master) update), column 4, lines 44-54 (write to the cycle time register)) to synchronize a data rate in a set top; outputting the adjusted clock to a MAC Chip (column 5, lines 53-60 (MAC layer)); adjusting a beacon packet in accordance with the adjusted clock (fig. 3a, step 59 ); transmitting the adjusted beacon packet to a wireless station (fig. 3a, step 61); and utilizing the adjusted beacon to adjust the rate of the local clock (fig. 3b, step 69).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate an apparatus for wirelessly transmitting and receiving

digital video data, as taught by Bove, and show the steps of adjusting a time base according to a relative time difference, as taught by del Prado Pavon, so that timing synchronization can be achieved.

However, Bove et al., and as modified by del Prado Pavon, do not specifically disclose VCXO.

In the same field of endeavor, Mohindra clearly shows VCXO (paragraph 0014 (VCXO)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate an apparatus for wirelessly transmitting and receiving digital video data, as taught by Bove, show the steps of adjusting a time base according to a relative time difference, as taught by del Prado Pavon, and demonstrate voltage controlled oscillator crystal, as taught by Mohindra, so that the best video quality can be achieved.

### ***Response to Amendment***

Applicant's arguments filed on 10/16/2008, with respect to claims 1, 7 and 9, on pages 4-8 of the remarks, have been carefully considered.

In the present application, Applicants basically argue, that Bove does not teach or suggest "indicating a time of video transmission" and "relative time difference". The Examiner has modified the response with a new reference which provides "indicating a time of video transmission" and "relative time difference". See the above rejections of



claims 1 and 7, for the relevant interpretation and citations found in Eerenberg, disclosing the limitations.

***Conclusion***

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
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**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Sai-Ming Chan whose telephone number is (571) 270-1769. The Examiner can normally be reached on Monday-Thursday from 6:30 am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Sai-Ming Chan/

Examiner, Art Unit 2416

January 16, 2009

/Brenda Pham/

Primary Examiner, Art Unit 2416